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MAY 04 2015

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

SC Court of Appeals

Matthew B. Fullbright,  
#349468, Appellant,

Appellate Case Number:  
2014-001684

v.

S.C. Dept of Corrections,  
Respondent.

MOTION TO NOT REMAND

SCDC (Respondent) has asked This Court to remand this case back to the Administrative Law Court (ALC) via motion dated March 27, 2015; In opposition Appellant submits this MOTION TO NOT REMAND. Appellant moves this Court to deny SCDC's motion to remand and grant Appellant the relief sought for the following reasons:

In its motion SCDC states "Appellant is not really appealing the ALC's order of remand." and "Since the order on appeal does not address the merits of the issues on appeal, review of those issues by the court would require de novo review."

First, to be clear, yes, Appellant absolutely is appealing the ALC's order of remand dated May 21, 2014. Second, Appellant has appealed that same order precisely because the merits were not addressed when analyzed under the strictures of either S.C. Code Ann. § 1-23-380 or S.C. Code Ann. § 1-23-610, et. seq.

When Appellant appealed SCDC's decisions to the ALC, Appellant presented the language of S.C. Code Ann. § 1-23-380, asking the Administrative Law Judge (ALJ) to grant Appellant the relief sought because:

"Substantial rights of the Appellant have been prejudiced in violation of both FEDERAL and STATE CONSTITUTIONS. SCDC's actions exceeded statutory provisions, several controlling FEDERAL and STATE CASES directly and clearly oppose SCDC's actions, SCDC's actions were clearly erroneous - even by their own admission - and SCDC's actions were definitely arbitrary and capricious - SCDC abused its discretion."

It is Appellant's belief that the ALJ should have adjudicated on the merits and granted Appellant the relief sought. Rather than simply argue, please allow Appellant, respectively, to clearly show this Court why this appeal is ripe for review, how the ALC issued an order directly appealable and the need for this Court to modify that order in as speedy a manner as possible.

In the order of remand the ALJ, with respect to the emergency aspect says "an emergency will encompass, but is not limited to, situations, actions, or conditions in which any person's health, safety, or welfare is threatened or in serious danger."

Here, the ALJ deviates from what that portion actually says as Appellant has quoted on Page eight, Appellant's Motion Not To Dismiss, filed in The ALC, date on certificate of service as April 17, 2014:

'Per SCDC Policy GA-01.12 § 19 "INMATE GRIEVANCE SYSTEM" Emergency Grievance refers to any complaint which... would subject an inmate to substantial risk of personal injury or to other serious or irreparable harm.' (emphasis mine.)

The ALJ made a CONCLUSION focusing on the physical injury part of that excerpt from SCDC policy - this case/appeal has never had any mention of any physical injury - the portion just spelled out by Appellant applies and fits neatly with the emergency nature of my case. In contradiction the ALJ then says "A timely decision is necessary to make certain the Appellant has access to everything he is entitled to, in order to allow him the ability to proficiently argue his case to the Court of Appeals."

Further, In the ALJ's letter to Appellant dated July 7, 2014, the ALJ CONCLUDED "the South Carolina Department of Corrections has provided you [Appellant] with all legal materials you requested except for crime scene photographs and bank statements."

However, Appellant proved that SCDC does not even know exactly what materials was returned or where exactly they are kept,

See Appellant's previous arguments / EXHIBITS in the Designation to be Included in the Record on Appeal, e.g.: Appellant's Initial Brief to the ALJ dated February 15, 2014, Page eight; Appellant's Initial Brief to This Court dated January 12, 2014, Pages 26-29 and 36/37; EXHIBITS E-8, E-15, N1 through 17 and SCDC's May 28, 2014 misconstruction of the ALJ's order of remand.

What these reveal is that S.L.E.D. puts thousands of photographs in my discovery, my trial attorney gives the same amount. SCDC however, says in one of their documents there are only two (2), and in yet another document says there are six (6)!

I showed way more than just that to the lower court yet the ALJ DECIDED to remand back to the SCDC.

I ask this Court to discharge its powers and duties and make a ruling - granting Appellant the relief sought - and modify the lower court's FINDINGS, CONCLUSIONS and DECISIONS in accordance with S.C. Code Ann. § 1-23-610, et seq. which states:

[T]his Court may modify or reverse the decision [of the ALJ] if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

(a) in violation of constitutional or statutory provisions;

- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantive evidence on the whole record; or
- (f) arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Appellant quoted that S.C. Code on pages 39 and 40 of the Initial Brief to This Court. I also explained that a remand would accomplish nothing.

Appellant believes that because of the prejudice, the risks to his criminal appeal and other legal endeavors, the manifest Constitutional violations, the many bright-line cases violated, the emergency criteria, the fact that many of Appellant's legal documents are now missing on behalf of SCDC; that because the ALJ decided to remand instead of rule on the merits; that because S.C. Code Ann. § 1-23-160 (B), et. seq. controls the fact that This Court can deem this appeal ripe and grant Appellant the relief he seeks, This Court should deny SCDC's motion to remand.

Lastly, in SCDC's motion there is a request to remand so as to brief on whether SCDC complied with the ALJ's order of remand. In just a few lines Appellant will clearly and convincingly show

SCDC violated the ALC's order of remand, rendering their request moot:

ALC ORDER OF REMAND dated May 21, 2014, Page 2:

"It is therefore ordered that this matter is remanded AS A REQUEST TO STAFF TO ANN HALLMAN, TO DETERMINE WHAT PAPERS AND DISCOVERY APPELLANT IS ENTITLED TO."

Unequivocally, the ALJ is telling SCDC to look at the grievances Appellant submitted and make a determination as to what Appellant is legally entitled to. SCDC is to do this through Ann Hallman, Branch Chief of Inmate Grievance.

Simple enough - hard to misconstrue that order.

Until, that is, we look at SCDC's May 28, 2014 reply to that order on Page 1:

"The Court remanded the case as a request to staff to Ann Hallman. However, because the documents were sent directly to the Department's Correspondence Review Committee, Ms. Hallman was not privy to the contents of the mailing Mr. Fullbright received."

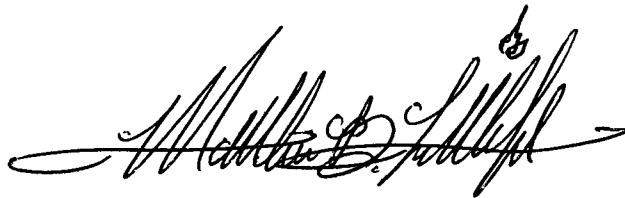
Did the ALJ tell Ann Hallman to pilfer through my attorney-client privileged documentation and become privy to all of the sensitive information, or did the ALJ tell Ann Hallman to look at grievances and make certain determinations?

Even if briefing commenced at this very second and so forth, How will THAT PUT INTO APPELLANT'S HANDS ALL OF THE UNREDACTED, UNCENSORED AND MISSING PORTIONS OF APPELLANT'S LEGAL DOCUMENTS WHICH APPELLANT NEEDS IMMEDIATELY?

I pray - please - rule on these constitutional and other violations. This, as I've said over and over, is an emergency situation requiring Immediate Remedy.

Respectfully Submitted,

Ever Grateful For My Rights,  
An American,

A handwritten signature in cursive script, appearing to read "Matthew B. Fullbright". The signature is written in black ink and is positioned above the typed name.

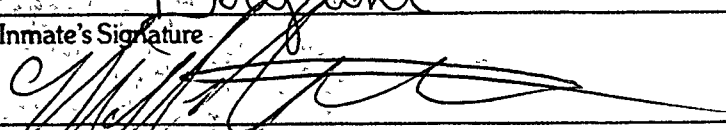

Matthew B. Fullbright  
APPELLANT, PRO SE  
#349468  
@ Lieber Corr. Inst., E-B-56  
Ridgeland, S.C.

April 9, 2015

See:  
Envelope  
"RECEIVED"  
Apr. 06 2015  
By  
M.B. Fullbright

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
Operations  
ORDER TO REPORT

Legal Mail

SCDC # 349468	Name Matthew Fullbright	Area EB 56
REPORT TO MR 4 - 02 - 15 AT 10 <sup>00</sup> am		
Bring All Belongings <input type="checkbox"/> Bring State Clothing <input type="checkbox"/> Bring Nothing <input type="checkbox"/>		
Date 4 - 01 - 15	Signed Bryant	
Date 4 - 01 - 15	Inmate's Signature 	
Date 4 - 1 - 15	Staff Member's Signature 	

Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, S.C. 29211

April 9, 2015

Re: Appellate Case No. 2014-001684  
Matthew B. Fullbright, #349468 v. S.C. Dep't of Corrections

Dear Ms. Kitchings:

SCDC, Respondent in the above referenced case filed a Motion to Remand dated March 27, 2015; Enclosed is Appellant's reply and counter-motion to Respondent's.

Respondent's Motion to remand was not served on Appellant until April 6, 2015. Because of SCDC's habit and practice of withholding Appellant's legal mail for extended periods of time and, through no fault of Appellant's, this package may arrive somewhat delayed.

Appellant prays, that under the circumstances mentioned, that the enclosures and motion are accepted and filed as timely. Appellant has enclosed a copy of the 4-01-15 ORDER TO REPORT to pick up SCDC's Motion to Remand and of the envelope containing that motion - delivered five days later on 4-06-15. SCDC's Motion is dated March 27, 2015.


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SC Court of Appeals

cc: SCDC Office of General Counsel;  
P.O. A. Marshall H. Fullbright;  
File.

Thank You and,  
Respectively,

  
Matthew B. Fullbright  
APPELLANT, PRO SE  
Ridgeland, S.C.

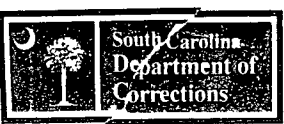
See  
ORDER - TO - REPORT  
Dated:  
4-02-15

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SC Court of Appeals

"MOTION TO REMAND"  
Dated: March 27, 2015



Office of General Counsel  
P O Box 21787/4444 Broad River Road  
Columbia South Carolina 29221-1787

LEGAL MAIL

EB  
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Matthew B. Fullbright, #349468  
Lieber Correctional Institution  
P O Box 205  
Ridgeville, S C 29472

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APR. 06, 2015  
Matthew B. Fullbright  
MATTHEW B. FULLBRIGHT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT  
The Honorable Cardyn C. Matthews

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Case No. Below: 13-ALJ-CA-0926-AP  
Appellate Case No.: 2014-001684

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Matthew B. Fullbright, #349468,

Appellant,

v.

South Carolina Dep't of Corrections,

Respondent.

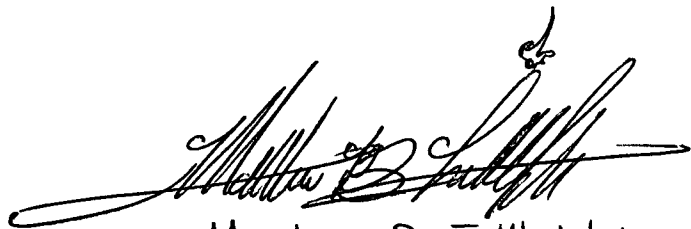
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CERTIFICATE OF SERVICE

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I, the undersigned, certify that on the below date I sent a copy of all enclosed and Motion to deny Respondent's Motion, via U.S. Mail to SCOC General Counsel, 4444 Broad River Rd., Columbia, S.C. 29221.

April 9th, 2015



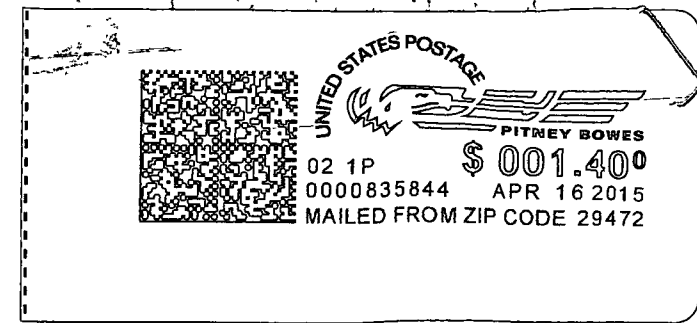
Matthew B. Fullbright,  
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Appellant, Pro Se  
Lieber Corn Inst., E-B-56  
P.O. Box 205  
Ridgeville, S.C. 29472

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Columbia, S.C. 29211

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